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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,156	06/29/2001	Kenneth R. Rosensteel JR.	52003203	7396

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EXAMINER

LIN, WEN TAI

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/896,156

Applicant(s)

ROSENSTEEL ET AL.

Examiner

Wen-Tai Lin

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 1-22.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____

Wen-Tai Lin
Primary Examiner
Art Unit: 2154

Continuation of 3. NOTE: The added new claim languages in the independent claims, interalia, "blocking via the API ..." raise new issue and would require reconsideration and/or search..

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive, therefore the rejections stand.

Applicant's new arguments that are unrelated to the newly added claim languages that raise new issue are summarized as follows: (1) the finality made in the previous office action is improper because the office action is a new rejection based on the description of Applicant's specification (e.g., paragraph #7); (2) in the rejection of claim 1, the examiner cited Prust's two distinct access methods (#1 and #2), wherein API and FTP do not coexist in either method; and (3) by way of Applicant's description in the specification, it should be clear that the term "heterogeneous" encompasses systems that have different operating system that use different word structures.

As to point (1): Applicant is reminded that the office action at paragraph #6 cited Prust as a sole prior art in the rejection of claims 1-3, 11-13 and 21-22. The added comment citing Applicant's specification at paragraph #7 simply serves as a reminder that this fact is known to the Applicant and plays no weight on the rejection.

As to point (2): it is noted that the previous office action consistently cited Prust's teaching about packetizing (i.e., blocking) data files (col.5, lines 20-27) in rejecting steps (B) - (E), while used col.1, lines 49-67 in rejecting step (A). Applicant appears to assert that Prust's FTP method (#2) does not involve API and the other method (#1) does. Prust does not attribute his teaching at col.1, lines 49-67 to solely for method #1 (i.e., access via the Operating System) as asserted by Applicant. In fact, Prust teaches that a set of API routines are provided for managing local files such as making request to a storage server or encrypting/decrypting data files. Such API routines are both required by methods #1 and #2 (the latter being the FTP method -- see col.6, lines 44-67). It is further noted that when Prust uses Macintosh's Apple File Services as an example of access method #1, Prust teaches that "the API includes the Apple File Services (AFS), ... via the Apple Filing Protocol (AFP) services over TCP/IP" (col.6, lines 6-12). It is clear that such teaching does not exclude FTP from using API routines as local file managing routines. Rather, Prust teaches including AFS as part of the API routines and replacing FTP with AFP protocol for access method #1.

As to point (3): in order to avoid broad interpretation, Applicant needs to clearly define the term "heterogeneous" as being involving different word structures in the claims.

William J. Lee
7/10/05